

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 24, 2011**

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Cameron, Hutchison, Riccardo, Voigt

STAFF ATTENDING: Ginsberg

RECORDER: Syat

Channel 79

Chairman Conze called the meeting to order at 8:00 P.M. and read the first agenda item:

PUBLIC HEARING

Coastal Site Plan Review #226-A, Flood Damage Prevention Application #250-A, Land Filling & Regrading Application #260, PL Properties, LLC, 3 Purdy Lane. Proposal to repair existing sea wall with some filling and regrading adjacent to the wall, enhance existing tidal wetlands, and perform related site activities within regulated areas. The subject property is on the south side of Boston Post Road, approximately 465 feet east of the Stamford City Line, and is shown on Assessor's Map #54 as Lot #33, in the R-1/3 Zone. ***POSTPONED TO JUNE 7, 2011.***

Mr. Conze noted that this item had been postponed until June 7, 2011. He then read the next agenda item:

Special Permit Application #50-M, Middlesex Club Inc., 20 Echo Drive North. Proposing to establish a schedule of outdoor events and activities. The subject property is at the west terminus of Echo Drive North, approximately 800 feet west of Hoyt Street, and is shown on Assessor's Map #30 as Lot #39 and is located in the R-1/3 Zone.

Mr. Stephen Olvany of 49 Echo Drive explained that he is currently the President of the Middlesex Club. He had submitted an April 29, 2011 letter outlining annual Club events, and he reviewed that letter with the Commission. He noted that as part of this application, there is no proposed change in membership, no change in Club use, and no change in hours other than those outlined within his letter.

Mr. Ginsberg explained that he reviewed the prior Special Permit applications for the Middlesex Club, and had discussed the need for the application with Mr. Olvany prior to its submittal. Mr. Olvany said that there is a formal event in July, which has a DJ or a band. Neighbors usually get notified of that event beforehand. Ms. Sara Knight, of 18 Phillips Lane, said that there is a big summer party which runs from 7 p.m. to 12 midnight. Mr. Spain asked about any neighbor reactions to these events. Mr. Spain said that this party which runs until midnight stands out from other events, and should be singled out. Mr. Spain then asked if parking was adequate. Mr. Olvany responded that police officers are hired for large swim meets, which usually run from 11 a.m. to 3 p.m. He also noted that parking is "tight" on Father's Day. Mr. Olvany confirmed that the only parking overflow is for those 1-2 swim meets. Mr. Spain then suggested rules/management techniques to minimize any parking impacts on the neighborhood.

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Mr. Robert Cunningham of 13 Echo Drive said that he was not sure of the purpose of the public hearing. Mr. Ginsberg explained that it is for the Planning and Zoning Commission to review and act upon the Club events.

Mr. Dick Constable of 9 Alpine Lane said that he has lived there since 1962. The original Special Permit for the Club did not consider sound. It did have specific closing hours. There have been some events which have gone late into the night. The neighbors want consideration regarding sound levels. Notice of these special events would also be helpful. Mr. Conze wondered whether neighbors could be added to the Club's mailing list, so they would be aware of events prior to their occurrence. Mr. Ginsberg noted that the existing closing time per prior Special Permits is "sundown". Mr. Constable explained that some events run past 9 p.m. or 10 p.m.

Mr. Scott Zimmerman said that few occasions have music. Once events are finalized in the spring, the Club can notify the neighbors. Ms. Cameron noted that there might only be one event annually that goes beyond 9 p.m. Mr. Cunningham said that there are more than four events annually with music. Ms. Knight confirmed that there are four bands planned for the summer. Mr. Cunningham explained that last year, there were 6-10 occasions with music that did not exceed the time limit. He said that there is a need to clarify the number of events and to notify neighbors prior to the events. Ms. Cameron asked about the Club reporting about this year's programs at the end of the season. Mr. Zimmerman responded that the Club could give that information to the Commission. Mr. Conze said that the Commission does not want to micromanage the Club, but it needs a summary of the number and type of events. Mr. Hutchison added that notice to the neighbors prior to the events would be helpful.

Ms. Gwynne Campbell of 7 Alpine Lane said that last summer, the Club had high activity. There were complaints precipitated by a number of events. The microphone system is of concern and is the main complaint, and that system is not necessary. She asked for a list or an e-mail of events. She said that by April or May of each year, the Club should know that summer's events. She would also like a limit on the times of live music or DJ.

Mr. Spain said that if the Club anticipates a large swim meet, they could liaison with other Clubs in Town about carpooling. Mr. Olvany noted that the pool closes daily at 8 p.m.

There being no other comments from the general public or the Commission members, Ms. Cameron made a motion to close the public hearing on this matter. That motion was seconded by Mr. Hutchison, and was unanimously approved.

At about 8:35 p.m., Mr. Conze then read the next agenda item:

Modification of Subdivision Application #563-A, David & Holly Hawes, 2269 Boston Post Road; Raymond Brown Associates, 2271 Boston Post Road; and Raymond and Georgie Brown, 2273 Boston Post Road. Request to reconfigure the existing shared driveway to include a small cul-de-sac with associated stormwater management and perform related site development activities. The subject properties are on the north side of Boston Post Road, approximately 360 feet east of its intersection with Salt Box Lane, and are shown on Assessor's Map #45 as Lots #28, #28A and #29A, all located in the R-1/3 Zone.

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Mr. Ginsberg noted that this application had recently received EPC approval, and Commission members had received a copy of that approval in their packets. Mr. Jay Condon then showed on the plan the proposed relocated driveway and the new rain garden. He explained that letters from Fire Marshal Robert Buch and the Postmaster were received approving this plan. Mr. Ginsberg noted that this relocated/modified driveway would not be considered a public or private street. It was acknowledged that the three subject property owners would plow the driveway in winter. Ms. Riccardo asked who would maintain the rain garden. Mr. Condon responded that there will be an agreement amongst all three property owners to do so.

Mr. Jim Book, a neighboring property owner at 2265 Boston Post Road, asked about the driveway width and the proposed drainage. It was noted that there would be no proposed change to the end of the driveway near its intersection with Boston Post Road.

There being no further comments or questions from Commission members or the general public, the public hearing on this matter was then closed.

GENERAL MEETING

At about 8:45 p.m., Mr. Conze then opened the General Meeting and read the following agenda item:

Amendment of Business Site Plan #119-A, Darien Professional Building, 106 Noroton Avenue.
Proposing to create a new exterior fire exit/2nd floor connection on the east side of the existing office building. The subject property is on the east side of Noroton Avenue, at the northeast corner formed by its intersection with Hecker Avenue and Maple Street, and is shown on Assessor's Map #40 as Lots #44A and #70 and is located in the Office Business (OB) Zone. *DECISION DEADLINE: JUNE 30, 2011.*

Mr. Ginsberg explained the proposal for the exterior stair. He reviewed the submitted plans as well as the cover letters submitted by J. Pierre Gagne, the owner's representative. He noted that this is a minor amendment to a previously approved site plan. He expected that approval of these changes would assist in resolving existing issues. The Fire Marshal has reviewed these plans and has approved them.

Mr. Hutchison made a motion to approve the plans as submitted. That motion was seconded by Ms. Cameron and unanimously approved.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #31-D(2), Palmer's Market, 264 Heights Road, DC Zone.
Request for propane tank exchange cage alongside of Palmer's Market.

Mr. Ginsberg summarized the submitted information from Amanda Marshall at Paraco Gas. Mr. Conze noted the typical customer process using such a tank replacement cage. It was acknowledged that other similar tank replacement installations now exist in Darien. Ms. Marshall explained that they expect to install one cage, which will hold 36 tanks. Mr. Spain then made a motion to approve this installation subject to review and final approval by the Darien Fire Marshal. That motion was seconded by Mr. Hutchison, and was unanimously approved.

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At about 8:50 p.m., Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #170-A/Special Permit, Planet Pizza, 874 Boston Post Road, CBD Zone.

Request for outdoor dining.

Mr. Richard Girouard was present to explain the proposal. He said that the outdoor seating would be self-service only, and there will be no waiter service. There will be no music, and no bench in the garden. Mr. Ginsberg said that this seating had been approved by the Architectural Review Board. Ms. Cameron wanted to see sufficient trash receptacles. Mr. Girouard explained that the property owner Mr. Schaeffer wished to have only one trash receptacle which would be regularly emptied; and the restaurant staff would take care to collect litter several times each day. Ms. Cameron then made a motion to approve the outdoor seating/dining. That motion was seconded by Mr. Voigt and was unanimously approved.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #186-B/Special Permit, Burgers Shakes and Fries, 800 Boston Post Road, CBD Zone.

Request for six tables for outdoor dining.

Mr. Kory Wollins said that they are proposing six picnic tables under the existing building overhang. He explained that the previous tenant, Bruegger's, had outdoor tables near Boston Post Road. Mr. Wollins said that there would be no chairs put at the ends of the picnic tables so the seating will not extend out into the area needed for pedestrians to pass by. Barriers may need to be installed to comply with State Liquor Control Commission requirements for serving beer/wine. He plans on ambient music, and staff will bus the tables, as they now do indoors. He mentioned that there may be five picnic tables, depending on the amount of room. Mr. Hutchison then made a motion to approve the request for outdoor dining as submitted and described by Mr. Wollins. That motion was seconded by Ms. Cameron, and was unanimously approved.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #88, 836 Boston Post Road, CBD Zone.

Request to establish a nail salon in the space formerly occupied by the Rainbow Shoppe.

Mr. Ginsberg explained the proposal for a nail salon to be established in the 3,300+/- square foot space formerly occupied by the Rainbow Shoppe at 836 Boston Post Road. He noted that the building is shared with Seasons Too, and there are ten on-site parking spaces. Because employees get to work by a van, no employee parking is required. The Town-owned Mechanic Street municipal parking lot is nearby. He referred to the e-mail submitted by William Ahn, with additional details regarding the proposal. Mr. Ahn was present, and explained that the proposed hours of operation would be Monday through Friday 9:30 a.m. to 7:30 p.m., and weekends 10 a.m. to 6 p.m.

Mr. Ginsberg said that the Zoning Board of Appeals reviewed this proposal last week, and approved it subject to Planning and Zoning Commission review and action. Mr. Spain asked whether Darien Health Department approval will be needed for this tenant. Mr. Ahn responded that it would be

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needed, and he will work with the Health Department. Mr. Conze said that the Commission could approve this tenant subject to final review and action by the Darien Health Department. Mr. Hutchison then made a motion to approve this tenant subject to final review and action by the Darien Health Department. That motion was seconded by Mr. Spain, and was unanimously approved.

At about 9:05 p.m., Mr. Conze then read the next agenda item:

Deliberations ONLY on the following closed public hearing matter:

Proposed Amendments to the Darien Zoning Regulations (#4-2011), Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259, Hunter Gregory Realty Corp., 599 Boston Post Road. Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. Zoning Regulation amendments are proposed to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria. The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. *PUBLIC HEARING CLOSED ON 5/10/2011. DEADLINE TO MAKE DECISION IS: JULY 14, 2011 UNLESS AN EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Ginsberg explained that any draft resolution would have to address the three parts of the application—a) the zoning regulation amendments; b) the site plan and special permit satisfying the requirements of those amendments; and c) the land filling and regrading application. Mr. Conze said that the proposed use is a good use. Ms. Cameron agreed. Mr. Voigt said that the applicant has already reached out to the local community to address any potential overflow parking concerns. Ms. Riccardo noted that the resolution will need to address the beam which is proposed to extend beyond the setback line. Mr. Ginsberg said that he expects to have a draft resolution prepared for review and action at the June 7 meeting.

Deliberations ONLY on the following if the public hearings have been closed:

Special Permit Application #50-M, Middlesex Club Inc., 20 Echo Drive North. Proposing to establish a schedule of outdoor events and activities. The subject property is at the west terminus of Echo Drive North, approximately 800 feet west of Hoyt Street, and is shown on Assessor's Map #30 as Lot #39 and is located in the R-1/3 Zone.

Mr. Spain said that an annual list of events should be submitted to the Commission, similar to what the YMCA now does. Ms. Riccardo suggested adding the neighbors to the mailing list, so they are aware of these events well before they occur. She added that for the one annual event that runs late, the music should be stopped at 11 p.m., and the Club cleared out by 12 midnight at the latest.

Modification of Subdivision Application #563-A, David & Holly Hawes, 2269 Boston Post Road, Raymond Brown Associates, 2271 Boston Post Road and Raymond and Georgie Brown, 2273 Boston Post Road. Request to reconfigure the existing shared driveway to include a small cul-de-sac with associated stormwater management and perform related site development activities. The subject properties are on the north side of Boston Post Road, approximately 360 feet east of its

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intersection with Salt Box Lane, and are shown on Assessor's Map #45 as Lots #28, #28A and #29A, all located in the R-1/3 Zone.

Mr. Ginsberg asked if the Commission wished to act on this via simple letter or via a formal resolution. Ms. Cameron said that the stormwater management proposed would dictate a formal resolution. Ms. Riccardo noted that all three property owners are "on the hook" for drainage maintenance. Mr. Hutchison added that a notice of the formal document (Notice of Drainage Maintenance Plan) will need to be filed in the Darien Land Records. Mr. Conze confirmed that this will be binding on all three property owners.

At about 9:10 p.m., Mr. Conze then read the next agenda item:

Discussion, deliberation and possible decisions regarding:

Coastal Site Plan Review #265, Flood Damage Prevention Application #301, Peter & Susan Markham, 4 Shipway Road. Proposing to lift the existing single-family residence, and construct additions and alterations to it; relocate the existing driveway; and to perform related site development activities within regulated areas. *DECISION DEADLINE: 7/7/2011.*

Mr. Spain made a motion to waive the reading of the two draft resolutions aloud. That motion was seconded by Ms. Cameron, and was approved by a vote of 6-0. Mr. Voigt then made a motion to adopt the Markham resolution as written. That motion was seconded by Ms. Cameron, and was approved by a vote of 5-0-1, with Mr. Conze abstaining, since he was not at the public hearing on this matter. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 24, 2011**

Application Number: Coastal Site Plan Review #265
Flood Damage Prevention Application #301

Street Address: 4 Shipway Road
Assessor's Map #57 Lot #29

Name and Address of Property Owner: Peter & Susan Markham
And Applicant: 4 Shipway Road
Darien, CT 06820

Name and Address of: Jacek Bigosinski
Applicant's Representative: PB Architects
277 Rowayton Avenue
Rowayton, CT 06853

Activity Being Applied For: Proposing to lift the existing single-family residence, and construct additions and alterations to it; relocate the existing driveway; and to perform related site development activities within regulated areas.

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Property Location: The subject property is at the northwest corner formed by the intersection of Shipway Road and Waverly Road.

Zone: R-NBD

Date of Public Hearing: May 3, 2011

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 22 & 29, 2011

Newspaper: Darien News

Date of Action: May 24, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 2, 2011

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 410, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The owner proposes to lift the existing single-family residence, and construct additions and alterations to it; relocate the existing driveway; and to perform related site development activities within regulated areas. A portion of the existing residence will be torn down. The subject property is served by public water and sewer.
2. The first floor of the house will be at elevation 11.97, which is at least one foot above the base flood elevation of 10.0 on the subject property. The residence will not have a basement, and the boiler and HVAC compressor will be located at or above elevation 10.0.
3. The Darien Zoning Board of Appeals (ZBA) approved Calendar #8-2011 on March 16, 2011. That approval is hereby incorporated by reference.
4. During the public hearing, it was explained that the applicant has proposed two bioretention system areas (rain gardens) on the property in order to address stormwater management.

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5. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
6. The Commission notes that the proposal would have the entire development at 19.6% building coverage which is 50 square feet short of the 20% maximum.
7. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
10. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
11. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #265 and Flood Damage Prevention Application #301 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. All work shall be in accordance with the plans entitled:
 - Zoning Location Survey, 4 Shipway Road, prepared for Peter Markham Susan Markham, by William W. Seymour & Associates, dated February 22, 2011.
 - Stormwater Management Plan prepared for Peter & Sandy Markham, by Trinkaus Engineering, LLC, dated February 22, 2011.
 - Addition and Alteration to the Residence of Sandy and Peter Markham, 4 Shipway Road, by PB Architects, Drawings No. A-0 through A-9.
- B. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. Prior to

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the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.

- C. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
- D. By July 24, 2011 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 4 Shipway Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- E. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- F. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- G. A final "as-built" survey is hereby required to certify that all of the site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work, including the lifting of the house, additions to the house, and the installation of the drainage work have been properly completed.
- H. Prior to the issuance of a Certificate of Occupancy, as-built maps, surveys and/or other documentation regarding the site work, drainage and building construction shall be submitted to the Commission staff to verify that the development work has been implemented in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to a Sewer Disconnection Permit and a Sewer Connection Permit from the Sewer Services Department (within Public Works).
- K. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 24, 2012). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plans by the Chairman, and the filing of a Notice of Drainage Maintenance Plan in the Darien Land Records per Condition D.

Land Filling & Regrading Application #257, Christopher & Margaret Stefanoni, 149 Nearwater Lane. Proposing to allow fill placed adjacent to stone wall on the northerly and westerly boundaries of the property to remain. *DECISION DEADLINE: 7/7/2011.*

Mr. Ginsberg outlined the changes to the draft resolution suggested by Commission members. He explained that there is no more than 12 inches of fill adjacent to the stone wall. Ms. Cameron then made a motion to adopt the resolution with the suggested changes. That motion was seconded by Mr. Hutchison, and approved by a vote of 5-0-1, with Mr. Conze abstaining, since he was not at the public hearing on this matter. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 24, 2011**

Application Number: Land Filling & Regrading Application #257

Street Address: 149 Nearwater Lane
Assessor's Map #56 Lot #23

Name and Address of	Christopher & Margaret Stefanoni
Property Owner:	149 Nearwater Lane
	Darien, CT 06820

Activity Being Applied For: Proposing to allow fill placed adjacent to stone wall on the northerly and westerly boundaries of the property to remain.

Property Location: The subject property is on the west side of Nearwater Lane, approximately 400 feet south of its intersection of Juniper Road.

Zone: R-1

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Date of Public Hearing: May 3, 2011

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 22 & 29, 2011

Newspaper: Darien News

Date of Action: May 24, 2011

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 3, 2011

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 362, 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plan, and the statements of the property owner, whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is to allow soil already placed adjacent to the stone wall recently constructed along the northerly and westerly boundaries of the property to remain. No trees are scheduled to be removed as part of this land filling and regrading project.
2. During the public hearing on May 3, 2011, it was noted that the stone wall construction started in 2008. Work on the wall stopped after an on-site meeting with Zoning Enforcement Officer David Keating and Planning and Zoning Director Jeremy Ginsberg, who noted the need for review and action by the Planning and Zoning Commission.
3. One neighbor spoke at the public hearing and did not oppose the application. There were no other oral or written comments from neighbors.
4. The finished grade that results from the fill placed at the base of the wall shall be no more than 12" from the original grade.
5. Professional Engineer Barry Hammons explained that he compared the Town's recent aerial photography with existing field conditions, and prepared the submitted plan. He noted that no fill was brought in from off-site. Soil that had been excavated for the foundation or base of the large stone wall was mounded against the inside of the wall, thus raising the grade level of the

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area adjacent to the wall. He added that the wall is structurally sound, and will have no drainage impact on adjacent properties. He mentioned that his topographic survey shows that the stone wall is entirely on the subject property. He submitted a one-page letter dated March 1, 2011 for the record.

6. Section 362 of the Darien Zoning Regulations reads as follows:

362. Walls and Fences

The yard requirements of these Regulations shall not be deemed to prohibit any fence or wall, including any necessary retaining wall, provided that in any residence zone no fence or wall shall exceed four feet in height in any required front yard, and six feet in height in any required side and rear yard, measured above the finished grade, subject to limitation in Subsection 363 and pertinent requirements of Article VIII. A special privacy fence up to eight feet high may be erected on a portion of a residential property that is immediately adjacent to a commercial zone and/or a property with an ongoing non-residential or Special Permit use as permitted in Section 404 of the Darien Zoning Regulations. This fence may be on either the residential property or the property with the ongoing non-residential or Special Permit use.

7. At the public hearing, the property owner noted that if the soil is allowed to remain adjacent to the wall, the existing wall would comply fully with Section 362 of the Darien Zoning Regulations. The portions of the wall that will be built will comply with Section 362 of the Regulations.
8. The final grades shall comply fully with Section 850 et. seq. of the Darien Zoning Regulations, including having slopes that meet subsection 854c (slopes shall be less than 2:1).
9. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling and Regrading Application #257 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Topographic Survey of Portion of Northerly and Westerly property lines prepared for Christopher Stefanoni & Margaret Stefanoni, #149 Nearwater Lane, by Hammons, LLC, dated February 24, 2011.
- B. No additional fill shall be used and there shall be no additional regrading on the property to complete construction of the stone wall.

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- C. Because of the limited scope of the work outlined within the application, and the fact that the filling and regrading work has been nearly completed, the Commission hereby waives the requirement for a Performance Bond.
- D. Because of the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for a detailed stormwater management per Section 888a(3) of the Darien Zoning Regulations.
- E. Since most, if not all of the proposed filling and regrading work has been done, a final, written certification by a Professional Engineer is not required.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the property owner of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (May 24, 2012). This may be extended as per Sections 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action and prior to the continuation of any filling or regrading work, or this approval shall become null and void.

Discussion of Zoning Regulations.

Mr. Ginsberg explained that the purpose of any future Commission conversations on the Zoning Regulations would be to give general background to Commission members on topics of interest. Ms. Cameron suggested that one such subject could be the Service Business (SB) zone. Mr. Spain suggested another topic could be the parking regulations. Mr. Conze said that an agenda of topics should be prepared by staff, and it could be published with specific dates, allowing for a press release and other publicity prior to the conversation.

Mr. Spain considered the possibility of subcommittees. Mr. Conze believed that this may be best done with the entire Commission, limiting the time of discussion to 15 minutes. Mr. Ginsberg and staff can present a specific regulation or section of the regulations, giving general background. Mr. Hutchison noted that this plays well into the Commission's role as both a Planning Commission and a Zoning Commission. Mr. Conze suggested an additional possible topic of overlay zones.

Any Other Business (Requires two-thirds vote of Commission)

Mr. Ginsberg explained that he had four items to cover under "Other Business"—the Darien YMCA summer camp; proposed Dolcetti 2nd floor tenant; proposed Dolcetti 1st floor tenant—both at 971-

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989 Boston Post Road; and a proposed special event for the Ox Ridge Hunt Club. A motion was then made to go into "Other Business to review and act upon these four matters. That motion was seconded and unanimously approved.

Mr. Ginsberg then reviewed an e-mail received from Pat Morrissey of the YMCA, requesting that the **YMCA at 2420 Boston Post Road** be allowed to hold two days of summer camp this June at the YMCA, rather than its usual location at Ox Ridge school. This was necessitated by the extension of the school year due to snow days. Mr. Voigt said that this would be similar to a special event at the YMCA. Commission members unanimously approved the request.

Mr. Ginsberg noted that two separate requests have been made for the **Dolcetti property at 971-979 Boston Post Road**. He said that because this property is the subject of a shared parking agreement, all tenants must be reviewed and acted upon by the Commission. Mr. Hutchison noted that since he owns the adjacent property, he would be recusing himself on these two requests. The first request is for a second floor tenant, which would be a new interior design studio. It would have no retail sales. The next request was for a first floor tenant to occupy the spaces formerly occupied by Artifact Lanier Collections and Fred and Dolly dry cleaners at 977-979 Boston Post Road. This request was outlined in a one-page letter from George Tsionis dated May 24, 2011. It explained that this tenant would be a salon with no more than six hair stylists and one receptionist. He noted in the letter that all employees would park off-site, and one on-site space would be for the manager. Mr. Ginsberg mentioned that the Commission's prior site plan approval for this property which includes the shared parking agreement requires that ALL employees park off-site. The Commission then approved both tenants by a vote of 5-0-1 (with Mr. Hutchison recusing himself), with the continued requirement that all employees park off-site.

The next item under other business was a request by "Greenwich Art" to hold a four day event this September 15-18 at the **Ox Ridge Hunt Club on Middlesex Road**. The details were spelled out in a letter read to the Commission by Mr. Ginsberg. Mr. Spain made a motion to approve this special event, with the request that Ox Ridge Hunt Club report back to the Commission with any statistics about traffic, parking, exhibitors, etc. for the event. That motion was unanimously approved.

Mr. Conze then mentioned that he made a presentation to the Senior Men's Association at the DCA last Wednesday May 18th. At that presentation, he noted the likelihood for future commercial redevelopment, and the need for the Commission to be prepared for this.

There being no other business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning and Zoning Director